

## 0540 Secretary for Resources—River Parkways Program

### *Language accomplishes the following:*

- Adopt trailer bill language to develop a framework for the award of grants under the River Parkways program.
- Appropriate, in the trailer bill, the \$38.35 million from Propositions 40 and 50 for the River Parkways Program.
- Require a report by the Agency on the geographic distribution and types of projects, as well as other details.

***Draft Date: 5/18/04***

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### **CHAPTER 3.8. CALIFORNIA RIVER PARKWAYS ACT OF 2004**

5750. This chapter shall be known, and may be cited, as the California River Parkways Act of 2004.

5751. The Legislature finds and declares all of the following:

(a) River parkways directly improve the quality of life in California by providing important recreational, open-space, wildlife, flood management, water quality, and urban waterfront revitalization benefits to communities in the state.

(b) River parkways provide communities with safe places for recreation including family picnics; bicycling and hiking; areas for river access for swimming, canoeing, and fishing; and many other activities.

(c) River parkways help revitalize deteriorated urban neighborhoods and provide an anchor for economic development by providing important recreational and scenic amenities.

(d) River parkways provide accessible open space that helps remedy the severe shortage of park and open-space areas that plague many urban and suburban communities, small towns, and rural areas.

(e) River parkways provide flood protection benefits for communities by providing wider corridors along our waterways that help store, and provide safe corridors for the passage of storm and flood waters.

(f) River parkways protect and restore riparian and riverine habitat.

(g) River parkways improve or protect the water quality in our rivers and streams.

(h) River parkways provide the recreational and ecosystem components of integrated regional water management and watershed plans.

(i) California can improve the quality of life in this state by assisting public agencies and nonprofit organizations in establishing, developing and restoring river parkways.

5752. For purposes of this chapter, the following terms have the following meanings:

(a) "Acquisition" means obtaining fee title or a lesser interest in real property, including easements, development rights, or water rights.

(b) "Development" includes, but is not limited to, improvement, rehabilitation, restoration, enhancement, preservation, protection and interpretation.

(c) "Interpretation" includes, but is not limited to, activities that explain natural, historical, and cultural resources in such a way that increases access to, understanding of, and enjoyment of such resources.

(d) "Nonprofit organization" means a private, nonprofit organization that qualifies for exempt status under Section 501 (c) (3) of the United States Internal Revenue Code.

(e) "Parkways Program" means the California River Parkways Program established pursuant to subdivision (a) of Section 5753.

(d) "Secretary" means the Secretary of the Resources Agency.

5753. (a) The California River Parkways Program is hereby established in the office of the Secretary of the Resources Agency, to be administered by the secretary.

(b) The secretary shall make grants available to public agencies and nonprofit organizations for river parkway projects from moneys appropriated to the secretary. Those funds may also be used for costs directly related to the delivery of the river parkways program.

(c) Grants may be awarded for the acquisition of land for river parkways or for the restoration, protection, and development of river parkways in accordance the provisions of this chapter. Not more than 10% of funds appropriated to the secretary by this chapter may be used for Urban Stream Restoration projects pursuant to Section 7048 of the Water Code.

(d) All projects shall comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(e) All acquisitions shall be from willing sellers.

(f) To be eligible for a grant, a project shall, at a minimum, meet two of the following conditions:

(1) Improve public access or provide compatible recreational opportunities such as trails for strolling, hiking, bicycling, and equestrian uses along rivers and streams.

(2) Protect, improve, or restore riverine or riparian habitat.

(3) Maintaining or restoring the open-space character of lands along rivers and streams to be compatible with periodic flooding as part of a flood management plan or project.

(4) Improve or restore the water quality of a river or stream by reducing pollutants, sediments or other causes of water quality degradation.

(5) Convert existing urban waterfront land uses into uses consistent with river parkways, as identified in this chapter.

(6) Provide facilities to support or interpret river or stream restoration or other conservation activities.

(g) Preference shall be given to eligible projects that are consistent with adopted River Parkway Plans, watershed plans, integrated regional water management plans, or other comprehensive planning efforts designed to provide long term guidance and strategy for the protection of river and watershed resources, and the resolution of water related conflicts within a specific geographical and hydrological area.

5754. The secretary shall develop regulations, criteria, or procedural guidelines for the implementation of this chapter that shall be consistent with, but not limited to, Section 5753. These regulations, criteria, or procedural guidelines are exempt from Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

5754.4 To extent funds are available, the secretary shall develop guidelines for the preparation and consideration of river parkway plans for the purpose of subdivision (i) of section 5753 and may award grants to assist in development of such plans. Watershed plans, integrated regional water management plans or other similar plans that integrate recreational, public access and habitat benefits with water quality or other water related objectives may be considered as river parkway plans.

5754.5. The secretary shall report annually to the legislature regarding the geographic distribution, types and benefits of projects funded pursuant to this chapter.

5755. All regulations, criteria, or procedural guides adopted by the secretary to implement this chapter are exempt from Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

SEC.2. Of the funds available for the purposes of 5096.650(c)(1) of the Public Resources Code, the sum of seven million eight hundred-fifty thousand dollars (\$7,850,000) is hereby appropriated from the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Fund established by 5096.610 of the Public Resources Code.

Of the funds available for the purposes of Section 79541 of the Water Code, the sum of thirty million five hundred thousand dollars (\$30,500,000) is hereby appropriated from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 established by Section 79510 of the Water Code.

## 540 Secretary for Resources—Sierra Nevada Cascade Program

### ***Language accomplishes the following:***

- Adopt trailer bill language creating the Sierra Nevada-Cascades Program, to provide a framework for the award of grants under this program.
- Appropriate, in the trailer bill, the \$9.15 million from Proposition 50 for the Sierra Nevada-Cascades Program.

***Draft Date: 5/18/04***

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Add new chapter to PRC Division 5 as follows:

### Chapter 3.9 Sierra Nevada-Cascade Conservation Grant Program

5760. The Sierra Nevada-Cascade Conservation Grant Program is hereby established in the Resources Agency, to be administered by the Secretary.

5761. For purposes of this chapter, the following definitions shall apply:

(a) "Acquisition" means obtaining fee title or a lesser interest in real property, including easements, development rights, or water rights.

(b) "Development" includes, but is not limited to, improvement, rehabilitation, restoration, enhancement, preservation, protection and interpretation.

(c) "Interpretation" includes, but is not limited to, activities that explain natural, historical, and cultural resources in such a way that increases access to, understanding of, and enjoyment of such resources.

(d) "Nonprofit organization" means a private, nonprofit organization that qualifies for exempt status under Section 501 (c) (3) of the United States Internal Revenue Code.

(e) "Program" means the Sierra Nevada-Cascade Conservation Grant Program established pursuant to Section 5760.

(f) "Secretary" means the Secretary of the Resources Agency.

5762. In administering the program, the secretary, working in collaboration and cooperation with local governments and interested parties, shall seek to:

(a) Provide increased opportunities for tourism and recreation.

(b) Protect water quality from degradation.

(c) Reduce the risk of natural disasters, such as fire.

(d) Protect, conserve, and restore the region's physical, cultural, archeological, and historical resources.

(e) Assist the local economy, including providing increased economic opportunities.

(f) Identify the highest priority projects and initiatives for which funding is needed.

(g) Undertake efforts to enhance public use and enjoyment of lands owned by the public.

(h) Support efforts that advance environmental preservation and the economic well being of Sierra residents in a complimentary manner.

(i) Aid the preservation of working landscapes.

(j) Support local government efforts to develop and implement open space and habitat protection plans including natural community conservation plans.

5763. The secretary may carry out projects and activities to further the purposes identified in section 5762 including providing grants and loans to public agencies and nonprofit organizations for acquisition, restoration, development and such other activities and projects as are necessary to meet the goals of this chapter, provided that all such expenditures must be consistent with any restrictions related to the source of funds. In implementing this chapter, the secretary shall consult with the city or county where a grant is proposed or an interest in land is proposed to be acquired.

5763.5(a) For the purposes of implementing Water Code Section 79544 the secretary may provide grants to local public agencies, local water districts, or nonprofit organizations for acquisitions consistent with this chapter for any of the following purposes:

(1) Acquisition of agricultural, forest or grazing lands, or other working landscapes to prevent conversion to uses that could decrease water quality and degrade habitat values or to establish management practices that improve water quality and habitat. Conservation easements that maintain lands in private ownership and management shall be used when possible to accomplish these purposes.

(2) Acquisition of lands adjacent to rivers, streams, lakes, or wetlands that, if not protected, could lead to a decrease in water quality.

(3) Purchase of water rights that will protect water quality and in-stream flows for resource protection.

(4) Acquisition of lands on which current management practices contribute to water quality degradation for the purpose of halting or reversing the adverse affects on water quality.

(b) Preference shall be given to projects that accomplish one or more of the following goals:

(1) Contribute to the implementation of a locally developed open space, agricultural preservation or habitat protection plan.

(2) Assist in the implementation of a locally developed and approved watershed protection plan.

5764. The secretary shall require a prospective grantee for land or water resource acquisitions to include in the grant application a proposal for the long-term management of the resource proposed to be acquired. The grant applicant shall identify the entity that will hold title to the resource, including any state or federal agency to which title may be transferred after acquisition, and the entity that will be responsible for managing and protecting water quality values of the resource.

5764.5 All acquisitions pursuant to this chapter shall be from willing sellers.

5765. The secretary may appoint an advisory committee that includes a membership that is representative of the diverse interests of the Sierra Nevada region including, but not limited to, local government, conservation, business, agriculture, and tourism.

5766. All regulations, criteria, or procedural guides adopted by the Secretary to implement this chapter are exempt from Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

SEC. 2. Of the funds available for the purposes of Section 79544 of the Water Code, the sum of nine million one hundred fifty thousand dollars (\$9,150,000) is hereby appropriated from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002,

established by Section 79510 of the Water Code, to the Secretary of the Resources Agency, for the purposes of awarding grants and program delivery pursuant to Section 79544 of the Water Code, in accordance with Chapter 3.9 of Division 5 of the Public Resources Code (commencing with Section 5760).

## 3600 Department of Fish and Game—Landing Fees

### ***Language accomplishes the following:***

- Ties the total amount of landing fees assessed in any year to the revenue levels set forth in the Budget Act for the DFG's activities related to commercial fishing. The fees should be limited to funding a program to manage and regulate the commercial fishing industry.
- Allows DFG to determine fees on commercial fee landings based on the value of the fish landed, which is similar to practices in Oregon and Washington.
- Creates a contingency reserve for the deposit of revenues in excess of department's budgetary needs that can be utilized to fund DFG's programs when revenues are low. This would help mitigate the need to raise fees when fish landings are low.

***Draft Date: 5/18/04***

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *The Legislature finds and declares all of the following:*

- (a) The current system of collecting funds from the commercial fishing industry for the purpose of supporting department programs related to the conservation and management of and research related to commercial fishing do not reflect the value of the fish they are based on, and in most years do not cover department costs associated with commercial fishing activities.*
- (b) The States of Oregon and Washington, among others, determine fees on commercial fish landings based on an ad valorem basis that more equitably and accurately reflect the true value of the fish landed. California's adoption of a similar process for establishing commercial fish landing fees would help to establish consistency among the Pacific coastal states, which would help to establish a level playing field for persons in the fishing industry along the Pacific coast.*
- (c) A contingency fund is needed by the department from its receipts of monies from the commercial fishery based on surpluses of funds from years when landings are high to assure there are adequate funds for department commercial fishing programs in years when commercial landings are down and receipts are low. Further, such a contingency fund will benefit commercial fishing by allowing the department to utilize contingency reserves instead of necessarily placing higher fees on the industry during periods of low landings or reduced ex-vessel fish prices.*

SECTION 2. Section 8040 of the Fish and Game Code is amended to read:

8040. The following definitions govern the construction of this article.

(a) "Commercial fisherman" means a person who has a valid, unrevoked commercial fishing license issued pursuant to Section 7850.

(b) "Landing fee ~~tax~~" means a ~~fee privilege tax~~ imposed pursuant to this article *to recover the costs described in Section 8042.*

**SECTION 3. Section 8041 of the Fish and Game Code is amended to read:**

8041. (a) The following persons shall ~~submit pay~~ *an annual* ~~the~~ landing fee to the department according to the fee schedule ~~tax~~ *established by the department determined* pursuant to Section 8042:

(1) Any person who is required to be licensed as a fish receiver, and any person who is licensed before January 1, 1987, as a wholesaler or a processor pursuant to former Section 8040 and who receives fish from commercial fishermen.

(2) Any commercial fisherman who sells fish to any person who is not a licensed fish receiver.

(b) Notwithstanding subdivision (a), a person licensed pursuant to Section 8460 who only takes, transports, or sells live freshwater fish for bait or a commercial fisherman who sells live freshwater fish for bait to such a licensed person, and a person licensed pursuant to Section 8033.1 who takes, transports, or sells live aquaria fish as described in Section 8597 or a commercial fisherman who sells live aquaria fish, are exempt from the landing ~~tax~~ fee imposed under this article. It is the intent of the Legislature that the license fee for live aquaria fish described in Section 8033.1 shall be in lieu of a landing ~~tax~~ fee.

(c) Notwithstanding subdivision (a), a person who purchases, sells, takes, or receives live marine fish for use as live bait as described in subdivision (g) of Section 8030 is exempt from the landing ~~tax~~ fee imposed under this article.

**SECTION 4. Section 8042 of the Fish and Game Code is amended to read:**

8042. (a)(1) ~~The amount of the landing tax under this article shall be determined by multiplying the tax rate for the type of fish delivered by a commercial fisherman in this state in accordance with the schedule in Section 8051 by the number of pounds, or fraction thereof, delivered. If the tax is imposed based upon weight in the round, and the fish is cleaned, gutted, beheaded, or otherwise not in the round at the time of delivery, the taxes shall be adjusted by a conversion factor as determined by the department by regulation. The Commission shall adopt annually, by emergency regulations, a schedule of landing fees authorized under Section 8041.~~

(2) *The landing fees shall be set as a percentage of between two to five percent of the total value of the fish as landed in the prior fiscal year. The landing fee for each species of fish or complex of fish shall be an ad valorem amount of the average ex-vessel price set forth for that species, based on the landing tickets from the previous year, and the same percentage shall be applied for all species of fish landed and sold. The department shall recommend to the Commission a percentage that is selected such that the total revenue collected each year equals the revenue levels set forth in the Budget Act for the activities described in subdivision (c), plus a reasonable reserve for contingencies.*



*(3) The Commission shall automatically adjust the landing fees schedule each fiscal year to conform with the revenue levels set forth in the Budget Act for these activities. If the Commission determines that the revenue collected during the preceding year was greater than, or less than, the revenue levels set forth in the Budget Act, the Commission may further adjust the annual fees to compensate for the over and under collection of revenue.*

*(4) The emergency regulations adopted pursuant to this subdivision, any amendment thereto, or subsequent adjustments to the annual landing fees, shall be adopted by the Commission in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the Commission, or adjustments to the annual fees made by the Commission pursuant to this section, shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the Commission.*

*(b) The Commission shall establish, by regulation, a timetable for the payment of the annual landing fees.*

*(c) The total amount of annual fees collected pursuant to this section shall equal that amount necessary to recover costs incurred in connection with the issuance, administration, review, monitoring, inspection and enforcement of facilities (including packing plants), activities and programs related to commercial fishing, including research on fish and their habitats associated with the management and promotion of sustainable fish populations; administrative costs incurred in connection with carrying out these actions; and a reasonable reserve for contingencies. These activities include, but are not limited to:*

*(i) activities undertaken by the department pursuant to authority granted in Part 3 of Division 6 of the California Fish and Game Code;*

*(ii) activities undertaken by the department related to commercial fisheries pursuant to authority granted in Part 1.7 of Division 6 of the California Fish and Game Code; and*

*(iii) activities undertaken by the department related to commercial fisheries within marine managed areas.*

*(d) In establishing the schedule of the total amount of annual fees pursuant to this section, the Commission shall consider:*

*(i) the total costs, as described in subdivision (c), associated with each fishery category;*

*(ii) the fee for, and revenue generated by, any commercial fishery permits; and*

*(iii) any existing special funds associated with that fishery category, including but not limited to the Fish and Game Preservation Fund, the Oil Spill Prevention and Administration Fund, the Federal Trust Fund, the California License Plate Fund, and any reimbursements.*

*(e) In establishing the schedule of the total amount of annual fees pursuant to this section, the Commission shall ensure that the fees reflect the following budget requirements for management of sound fisheries:*

- (i) *not less than the average annual amount expended in fiscal years 1994-2004 for research and management activities related to maintained and enhanced herring resources, and*
- (ii) *not less than the average annual amount expended in fiscal years 1994-2004 for ensuring sustainable salmon populations pursuant to former Section 8055.*
- (f) *The definitions of "fish" in Section 45 of this Code and of "fishery" in Section 94 of this Code shall govern the determination of what constitutes a fishery under subdivisions (c) and (d).*
- (g) *Notwithstanding any other provision of law, any landing fees collected pursuant to this section shall be deposited in the Commercial Fishing Conservation, Management and Research Fund, which is hereby created. The money in the fund is available for expenditure by the department, upon appropriation by the Legislature, solely for the purposes of carrying out the activities described in subdivision 8042(c).*
- (h) *Not later than one year following the first establishment of landing fees pursuant to this subdivision, the department shall recommend to the Commission, and the Commission shall act on, modifications of the commercial fishing permit fees for each fishery category listed pursuant to Chapter 2, Part 3 of Division 6 as necessary to recover costs associated with the issuance and administration of those permits. Permit fees shall be reviewed and modified annually thereafter to ensure the department continues to recover the costs associated with the issuance and administration of permits for each fishery category.*

**SECTION 4. Section 8047(b) of the Fish and Game Code is amended to read:**

(b) Every commercial fisherman who sells fish taken from the waters of this state or brought into this state in fresh condition to persons not licensed to receive fish for commercial purposes pursuant to Article 7 (commencing with Section 8030) shall make a legible record in the form of the landing receipt required by Sections 8043 and 8043.1. Persons subject to Section 8043 shall remit the landing ~~tax~~ fee imposed by Section 8041. The person taking, purchasing, or receiving the fish, whether or not licensed under Article 7 (commencing with Section 8030), shall sign the landing receipt. The original signed copy of the landing receipt shall be delivered by the commercial fisherman to the department on or before the first and 16th day of each month. A copy of the landing receipt shall be retained by the commercial fisherman for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the landing receipt shall be retained by the person taking, purchasing, or receiving the fish until they are prepared for consumption or otherwise disposed of. A copy of the landing receipt shall be delivered to an agent authorized in writing by the majority of the persons who participated in the taking of the fish, excluding the commercial fisherman receiving the original copy.

**SECTION 5. Section 8051 of the Fish and Game Code is deleted.**

~~8051. (a) The landing tax imposed pursuant to Section 8041 shall be determined pursuant to Section 8042 by using the tax rates in the following schedule:~~

<del>_____</del>	<del>Rate per</del>
<del>_____</del>	<del>pound</del>
<del>(1) All fish, except as otherwise specified</del>	

<del>— in this section .....</del>	<del>\$0.0013</del>
(2) <del>Mollusks and crustaceans, excluding squid</del>	
<del>— and crab .....</del>	<del>.0125</del>
(3) <del>Crab .....</del>	<del>.0019</del>
(4) <del>Squid .....</del>	<del>.0019</del>
(5) <del>Salmon, based only on the weight</del>	
<del>— in the round .....</del>	<del>.0500</del>
(6) <del>Lobster .....</del>	<del>.0125</del>
(7) <del>Abalone .....</del>	<del>.0125</del>
(8) <del>Anchovies .....</del>	<del>.0013</del>
(9) <del>Sardines .....</del>	<del>.0063</del>
(10) <del>Mackerel .....</del>	<del>.0013</del>
(11) <del>Halibut .....</del>	<del>.0125</del>
(12) <del>Angel shark, based only on the weight</del>	
<del>— in the round .....</del>	<del>.0113</del>
(13) <del>Swordfish, based only on the weight</del>	
<del>— in the round .....</del>	<del>.0125</del>
(14) <del>Thresher shark, based only on the weight</del>	
<del>— in the round .....</del>	<del>.0113</del>
(15) <del>Bonito shark, based only on the weight</del>	
<del>— in the round .....</del>	<del>.0113</del>
(16) <del>Herring .....</del>	<del>.0125</del>
(17) <del>Sea urchin .....</del>	<del>.0013</del>
(18) <del>The following fish: .....</del>	<del>.0125</del>
<del>— Barracuda</del>	
<del>— Flying fish</del>	
<del>— Frogs</del>	
<del>— Giant sea bass</del>	
<del>— Saltwater worms</del>	
<del>— White sea bass</del>	
<del>— Yellowtail</del>	

~~—(b) This section shall become operative on January 1, 1994.~~

**SECTION x. Sections 8051.3 and 8051.4 of the Fish and Game Code are amended to read:**

8051.3. (a) Any person who is required to pay a landing ~~tax~~ *fee* for abalone pursuant to Sections 8041 and 8042 shall pay, in addition to the landing ~~taxes~~ *fees* determined pursuant to Section 8042 ~~54~~, an additional ~~tax~~ *fee* of nineteen and one-half cents (\$0.195) for each pound, or fraction thereof, of abalone, determined as provided in Section 8042.

(b) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends that date.

8051.4. (a) The landing ~~tax~~ *fee* collected pursuant to Section 8051.3 shall be deposited in the Fish and Game Preservation Fund and shall be used only for the Abalone Resources Restoration and Enhancement Program. The department shall maintain internal accounts

necessary to ensure that the funds are disbursed for the purposes in this subdivision. No more of the landing ~~tax~~ fee collected pursuant to Section 8051.3 than an amount equal to the regularly approved department indirect overhead rate may be used for administration by the department. Any interest on the revenues from the landing ~~tax~~ fee collected pursuant to Section 8051.3 shall be deposited in the fund and used for the purposes in this subdivision.

(b) A Commercial Abalone Advisory Committee shall be appointed by the director, consisting of six members who shall serve without compensation or reimbursement of expenses. One of the members shall be a person who was required to pay landing ~~taxes~~ fees pursuant to Section 8051.3 during the 1996-97 permit year. Each of the five remaining members shall have held a commercial abalone diving permit during the 1996-97 permit year, and represent the following groups and organizations:

(1) One member shall be selected from divers with a place of residence north of Point Sur.

(2) One member shall be selected from divers with a place of residence south of Point Dume.

(3) One member shall be selected from divers with a place of residence south of Point Sur and north of Point Dume.

(4) Two members shall be selected from the membership of the California Abalone Association without regard to place of residence. This subdivision does not prohibit persons selected pursuant to paragraph (1), (2), or (3) from also being members of the California Abalone Association.

(c) The advisory committee shall make recommendations to the director and the director shall use his or her best efforts to implement those recommendations for activities to be conducted with funds collected pursuant to Section 8051.3, and those funds collected from any previous calendar year shall be available for use for those activities.

(d) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2008, deletes or extends that date.

## **SECTION 6. Section 8052 of the Fish and Game Code is deleted.**

~~8052. Landing taxes shall be used only for the administration of laws relating to the commercial fishing industry, except as follows:~~

~~—(a) Not less than 90 percent of the landing tax on herring taken for roe shall be expended for research and management activities to maintain and enhance the herring resources within the waters of this state.~~

~~—(b) Not less than 90 percent of the landing tax on thresher shark or bonito (mako) shark shall be expended for the study required by, and for the costs of administering, Article 16 (commencing with Section 8560) of Chapter 2.~~

## **SECTION 7. Section 8053 of the Fish and Game Code is amended to read:**

8053. Landing ~~fees~~ ~~taxes~~ imposed by this article shall be paid quarterly to the department within 30 days after the close of each quarter *following notification of the assessment of the fee*. If any landing ~~fee~~ ~~tax~~ is not paid within 30 days after the close of the *quarter* for

which it is due, the department shall collect amounts owing under the procedures prescribed for sales and use taxes provided in Chapter 5 (commencing with Section 6451) and Chapter 6 (commencing with Section 6701) of Part 1 of Division 2 of the Revenue and Taxation Code, insofar as they may be applicable, and for those purposes, "board" means the department and "the date on which the tax became due and payable" means that date 30 days after the close of the quarter for which it is due. *[question for Leg Counsel - instead of this system, which is a "tax" system, do we need to create a new Part 22.7 of the Rev and Tax Code, Sections 44500 et seq., call it the Commercial Fishing Management Fund, and insert collection language modeled on surrounding programs and fee collection structure in Rev and Tax Code §§ 55001 et seq.?]*

**SECTION 8. Sections 8055 and 8056 of the Fish and Game Code are deleted.**

~~8055. All moneys received as a privilege tax from persons who receive salmon from fishermen under the provisions of this article shall be used only for the purpose of propagating salmon. 8056. Except as otherwise provided in this article, all moneys collected pursuant to this article shall be paid to the department, and shall be expended for the patrol of packing plants, inspection and regulation of the fishing industry, and conservation work for the benefit of the commercial fishing industries.~~

**SECTION 9. *[amending various sections to change "tax" to "fee"]***

8057. If the department determines that any *landing fee tax* or penalty has been paid more than once or has been erroneously or illegally collected or computed, the department shall set forth that fact in the records of the department. The excess amount collected or paid shall be credited on any amounts then due and payable from the person under this part, and the balance shall be refunded to the person, or his successors, administrators, or executors.

8058. In the event of overpayment of any of the *fees taxes* imposed by this article, the *feetax* payer may file a claim for refund or a claim for credit with the department. Norefund or credit shall be approved by the department unless the claim therefor is filed with the department within six months after the close of the calendar year in which the overpayment was made.

8059. Every claim for refund or credit for overpayment of a landing *feetax* shall be in writing and shall state the specific grounds upon which the claim is founded.

8060. Failure to file a claim for refund or credit within the time prescribed in this article constitutes a waiver of any demand against the state on account of overpayment of a landing *feetax* or *feestaxes*.

8061. Within 30 days after disallowing any claim for refund or credit for overpayment of a landing *feetax* in whole or in part, the department shall serve notice of its action on the claimant, either personally or by mail. If served by mail, service shall be made pursuant to Section 1013 of the Code of Civil Procedure and shall be addressed to the licensee at his address as it appears in the records of the department, but the service shall be deemed complete at the time of the deposit of the notice in the mail without extension of time for any reason.

8062. Interest shall be paid upon any overpayment of a landing ~~fee tax~~ at the rate of one-half of 1 percent per month from the date of overpayment. The interest shall be paid to the date the claim for refund or credit is approved by the department.

8063. If the department determines that any overpayment of a landing ~~fee tax~~ has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

8064. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this state or against any officer of the state to prevent or enjoin the collection under this article of any landing ~~fee tax~~.

8065. No suit or proceeding shall be maintained in any court for the recovery of any amount of landing ~~fee tax~~ alleged to have been erroneously paid or erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed pursuant to Sections 8058 and 8059.

8067. If the department fails to mail notice of action on a claim for refund or credit for overpayment of a landing ~~fee tax~~ within six months after the claim is filed, the claimant may, prior to the mailing of notice by the department of its action on the claim, consider the claim disallowed and bring an action against the department on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

8068. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any landing ~~fee tax~~ due and payable from the plaintiff to the state under this article. The balance of the judgment shall be refunded to the plaintiff.